REMARKS

Applicant wishes to thank the Examiner for the indication that claims 6, 11, 15, 28, 33, 37, 58 and 59 are allowed.

Claims 6-8, 11, 15, 28, 33, 37, 58, and 59 are currently pending in the subject application and are presently under consideration. As noted above, claims 6 and 15 have been amended. Thus, after entry of these amendments, claims 6-8, 11, 15, 28, 33, 37, 58, and 59 will remain pending in this application.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 6 and 15 Under 35 U.S.C. §112

Claims 6 and 15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. In particular, the Examiner states that the term "wireless telephone" in lines 12-13 lacks antecedent basis.

Applicant disagrees with this rejection. In an effort to expedite prosecution, however, Applicant has amended claims 6 and 15. As noted above, and as suggested by the Examiner's indication of Allowable Subject Matter at paragraph 6, lines 4-5, Applicant has amended claims 6 and 15 to replace "wireless telephone" with -- the wireless communication device --.

Thus, the rejection is moot, and Applicant respectfully requests the Examiner to withdraw the rejection of claims 6 and 15 under 35 U.S.C. §112, second paragraph.

II. Rejection of Claims 7 and 8 Under 35 U.S.C. §102(e)

Claims 7 and 8 stand rejected under 35 U.S.C. §102(e) as being anticipated by Maggenti, et al. US 6,477,150 B1. Applicant respectfully traverses this rejection.

Maggenti does not disclose, at least, the recited subject matter of: (i) at least one SIP header *generated by a first telephony infrastructure component*, where the header includes *information derived at least in part from an over-the-air (OTA) protocol message from a wireless communication device*; or (ii) wherein the OTA protocol message is a CDMA initiation request message, the information represents CDMA call

set-up parameters-that are related to the OTA protocol and are not related to voice over Internet Protocol (VOIP) communication within the infrastructure, and (a) the information represents whether a signaling encryption is supported by the wireless communication device (as recited by claim 7) OR (b) the information represents MOB_TERM status of the wireless communication device (as recited by claim 8); or both (i) and (ii).

(i).No disclosure of "at least one SIP header *generated by a first telephony infrastructure component*, where the header includes *information derived at least in part from an over-the-air (OTA) protocol message from a wireless communication device*"

Applicant respectfully submits that the Examiner's allegation that Maggenti discloses the subject matter of item (i) above, based on Figs. 2-3, col. 7, lines 38-46 and col. 25, lines 34-42, is incorrect. Rather than disclosing the recited first telephony infrastructure component generating a SIP header including information derived at least in part from an OTA protocol message from a wireless communication device, Maggenti generally discloses the use of a SIP protocol between communication devices (CDs) and a communication manager (CM), as well as disclosing details of a particular SIP invite message sent by a CD prior to joining a "net" in the group communication system of Maggenti. In particular, Maggenti discloses:

> "[a]t the application level, the present invention operates over three Internet-based protocols as shown in FIG. 3. Of course, other protocols could be used in the alternative. Communications between CM 218, and CDs 202, 208, and 210 occurs within these protocols. CDs find, join, leave, and learn about various nets using the Session Initiation Protocol (SIP)" (col. 7, lines 41-44)

and, in the context of a SIP request for an updated list of nets:

> "[w]hen appropriate, CD 202 can also include additional application-specific headers identifying the network and the system from which a cellular based CD is obtaining service." (col. 7, lines 36-38).

Although Maggenti discloses a CM 218 (which may be integrated with an MSC 220) using SIP communications, there is no disclosure of CM 218 or MSC 220 generating a SIP header *that includes information derived at least in part from an OTA protocol message from a wireless communication device*, as recited by claims 7 and 8. Firstly, the two portions of Maggenti cited by the Examiner are not linked. The first discussion generally relates to SIP communications, and the second discussion relates to a specific SIP request made by a CD to identify nets to join for group communications. The Examiner has not provided any rationale as to how these two discussions are related.

Further, even assuming for the sake of argument that the two discussions are related, the second discussion discloses a CD potentially generating a header having network or system information. In contrast, claims 7 and 8 recite that the SIP header is generated by a "first telephony infrastructure component," which is different from the CD of Maggenti. The CD of Maggenti is a wireless telephone, which according to claims 7 and 8 is the entity from which the first telephony infrastructure component obtains the OTA protocol message-derived information. As such, nowhere in the Examiner's citations is there any disclosure of a first telephony infrastructure component, such as MSC 220, generating SIP headers including *information derived at least in part from an OTA protocol message from a wireless communication device.*

Thus, Maggenti does not disclose or suggest a first telephony infrastructure component *generating* a SIP header that includes *information derived at least in part from an OTA protocol message from a wireless communication device*, as recited by claims 7 and 8.

(ii) No disclosure of the recited subject matter stating that the OTA protocol message is a CDMA initiation request message, the information represents CDMA call set-up parameters-that are related to the OTA protocol and are not related to voice over Internet Protocol (VOIP) communication within the infrastructure, and (a) the information represents whether a signaling encryption is supported by the wireless communication device (as recited by claim 7) OR (b) the information represents MOB_TERM status of the wireless communication device (as recited by claim 8)

Applicant respectfully submits that the Examiner's allegation that Maggenti discloses the subject matter of item (ii) above, based on col. 9, lines 61-64, col. 25, lines 40-42, col. 39, lines 38-47 and col. 26, lines 45-54, is incorrect.

Rather than disclosing that the generated SIP header includes information derived at least in part from a CDMA initiation request message, as recited by claims 7 and 8, the Examiner cites to a portion of Maggenti (col. 9, lines 61-64) that generally discusses that a CD of Maggenti is operable according to a CDMA standard. The Examiner has failed to provide any reasonable explanation as to how this general discussion actually discloses the recited CDMA initiation request message, or as to how this general discussion discloses that the recited CDMA initiation request message is used to derive information for inclusion in a SIP header generated by a first telephony infrastructure component. Thus, Maggenti does not disclose the recited subject matter.

Further, rather than disclosing that the SIP header generated by the first telephony infrastructure component includes information representing CDMA call set-up parameters that are related to the OTA protocol and are not related to voice over Internet Protocol (VOIP) communication within the infrastructure, as recited by claims 7 and 8, the Examiner cites to a portion of Maggenti (col. 25, lines 40-42) that generally discusses that a CD can generate a SIP request that includes additional application-specific headers "identifying the network and the system from which a cellular based CD is obtaining service." (col. 7, lines 36-38). As noted above, the CD of Maggenti is different from the recited first telephony infrastructure component, and thus this disclosure is different from the recited subject matter. Additionally, even assuming for the sake of argument that this disclosure relates to the recited first telephony infrastructure component, the Examiner has not provided any explanation as to how the disclosed network and system information relates to or discloses the recited CDMA call set-up parameters that are related to the OTA protocol and are not related to voice over Internet Protocol (VOIP) communication within the infrastructure. Thus, Maggenti does not disclose the recited subject matter.

Additionally, rather than disclosing that the SIP header generated by the first telephony infrastructure component includes information representing whether a signaling encryption is supported by the wireless communication device, as recited by

claim 7, the Examiner cites to a portion of Maggenti (col. 39, lines 38-47) that generally states that "[b]oth SIP call signaling and PGP public key encryption require the existence of a unique user-id or similar identifier to uniquely identify CD 202." While this disclosure may generally relate to encryption, the Examiner has not provided any explanation as to how this disclosure relates to generating a SIP header by the first telephony infrastructure component. Further, the Examiner has not provided any explanation as to how this disclosure relates to the generated SIP header including information representing whether a signaling encryption is supported by the wireless communication device. In fact, such disclosure or explanation is not found in Maggenti. Thus, Maggenti does not disclose the recited subject matter.

Additionally, rather than disclosing that the SIP header generated by the first telephony infrastructure component includes information representing MOB_TERM status of the wireless communication device, as recited by claim 8, the Examiner cites to a portion of Maggenti (col. 26, lines 45-54) that generally relates to a SIP status code being used instead of a SIP INVITE response. While this disclosure may generally relate to a SIP status code, the Examiner has not provided any explanation as to how this disclosure relates to generating a SIP header by the first telephony infrastructure component. The disclosed SIP status code appears to be the payload of the message, and thus is not a SIP header. Further, the Examiner has not provided any explanation as to how this disclosure relates to the generated SIP header including information representing MOB_TERM status of the wireless communication device, as recited by claim 8. As noted in the specification at paragraph 0049, the MOB_TERM status is a CDMA specific parameter. In contrast, the SIP status code disclosed by Maggenti is not a CDMA specific parameter, but instead is a SIP protocol parameter. Thus, Maggenti does not disclose the recited subject matter.

In summary, for one or any combination of the reasons noted above, Maggenti fails to disclose or suggest the OTA protocol message is a CDMA initiation request message, the information represents CDMA call set-up parameters-that are related to the OTA protocol and are not related to voice over Internet Protocol (VOIP) communication within the infrastructure, and (a) the information represents whether a signaling encryption is supported by the wireless communication device (as recited by claim 7) OR

(b) the information represents MOB_TERM status of the wireless communication device (as recited by claim 8), as recited by claims 7 and 8.

Therefore, based on the above remarks, Applicant respectfully requests the Examiner to withdrawn the rejection of claims 7 and 8 under 35 U.S.C. §102(e) as being anticipated by Maggenti.

III. Maggenti not citable under 35 U.S.C. §103(c)

Additionally, it should be noted that Maggenti is not citable prior art in an obviousness rejection according to 35 U.S.C. §103(c). The following is a quotation of 35 U.S.C. §103(c):

> (c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), and or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The subject matter of Maggenti and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to QUALCOMM Incorporated.

Therefore, it should be noted that Maggenti is not a citable 35 USC § 103 reference with respect to the subject application; and furthermore Maggenti fails to teach or suggest the subject matter recited by claims 7 and 8.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 17-0026.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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